

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington D.C. 20554

In the Matter of)	
)	
Request for Review of the)	CC Docket No. 02-6
_____)	CC Docket No. 96-45
Decision of the)	
Universal Service Administrative Company)	File No. _____
)	
By)	
)	
Hamilton Clermont Cooperative)	
Association of Boards of Education)	
SPIN #143024403)	

To: Office of the Secretary, FCC
Attention: The Chief, Wireline Competition Bureau

REQUEST FOR REVIEW

Pursuant to Section 54.719(c) of the Rules of the Federal Communication Commission ("FCC" or "Commission"), Hamilton Clermont Cooperative Association of Boards of Education ("HCCA"), respectfully requests review of the attached Funding Commitment Decision Letters ("Decision Letters") (attached as Exhibit A hereto) of the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company.

The Decision Letters denied funding for the billed entities listed in Exhibit B hereto for alleged failure to have provided bills that support the amounts requested. As will be shown below, the SLD: (1) incorrectly determined that the amounts requested were not supported; (2) in the event that HCCA's submissions were thought to be insufficient, failed to provide HCCA with a reasonable opportunity to provide additional support for the amounts requested; and (3) in violation of applicable FCC policy, reduced payment for the discounted portion of the services rendered.

HCCA is an Internet Service Provider that provides internet access to public and non-public schools in the State of Ohio. During academic year 2009, HCCA provided internet access to non-public schools as described in Exhibit B. HCCA submitted timely and compliant requests for E-Rate reimbursement to fund those services.

On July 17, 2009 Ubong Udofia of the SLD sent an email (attached as Exhibit C) to Susan Patrick, IT Operations Manager of HCCA, requesting that HCCA provide a detailed invoice for each of the products/services with the following information:

- Bill Date / Ship Date
- Service Provider Name
- Total Current Charge
- Bill-To Entity (Name & Address)
- Description of Products/Services Delivered

In addition to a copy of the detailed invoice, please provide the Service Certification form, for the products/services received and a copy of cancelled checks (front and back) representing the School Districts payment for the item/s above. If the check/s include payment for item/s other than those listed above, please provide the remittance information for each check.

(Emphases and underlining in original.)

Attached as Exhibit D are the responses provided for the billed entities referenced in Exhibit B. These responses were all timely filed with the SLD pursuant to extensions of time requested by HAAC and granted by Mr. Udofia. Exhibit D clearly shows that for each billed entity, all information requested by the SLD reviewer was provided. Specifically each billed entity provided an invoice which fully met the request of the SLD reviewer. Each billed entity also showed that it had paid its portion of the undiscounted cost through a combination of direct payment from the billed entity by check (copies of which were provided) and from a warrant issued by the Ohio Department of Education pursuant to Ohio Ordinances ORC 3317.06 and 3317.024 to pay the **non-discounted** portion of the internet service charge.

The Ohio Department of Education provides \$3,000 per year per building to K-12 schools towards the purchase of internet conductivity. Where the school is a non-public school, the payment is made directly to the internet service provider, which in these cases was HCCA.¹ As provided for in the authorizing statute, the payment by the Ohio Department of Education is a payment on behalf of the billed entity to the service provider towards the nondiscounted portion of the service fee.

As is evident from Exhibit D, the payment towards the nondiscounted portion of the service fee by the Ohio Department of Education is shown on each of the invoices provided to the non-public school billed entity and the invoices provided to the SLD representative. Even so, in order to further ensure that the SLD focused on, understood and properly applied this particular provision of Ohio law, on several occasions HCCA highlighted this special factor in emails sent to Mr. Udofia. See, for example:

- the explanation sent by Susan Patrick to Mr. Udofia on July 29, 2009 (Exhibit F);
- the further explanatory email sent by Al Porter of HCCA to Mr. Udofia on August 19, 2009 (Exhibit G); and
- the explanatory cover page of a bill faxed by Tom Ahlrichs of St. Francis Seraph School to Mr. Udofia on August 26, 2009 (Exhibit H; this is excerpted from Exhibit D);

It must be noted further that the final pages of several of the invoices included in Exhibit D comprise credit memos that clearly label the \$3,000 entry as “State Subsidy – 2008-2009.”

Despite the comprehensive submissions by HCCA and the billed entities to SLD’s designated representative, including multiple explanations of the state subsidy and how it was handled, Exhibit B shows that the SLD, without explanation or justification, has reduced

¹ See the October 17, 2008 Memo from Jennie Arnold, Assistant Director of the Office of Operations, Ohio Department of Education (Exhibit E). See also FY09 Ohio K-12 Network Non-Public Building Connectivity Payments FYTD (Detailed) - January 05, 2009 (included in Exhibit E).

payment for the discounted portion of the service fee by \$3,000. The SLD's only notation for its action was: "Amount Requested Not Supported by Bill." The SLD has never provided any explanation for why the reimbursement for the discounted portion of the service fee was "Not Supported by Bill." Moreover, it has given neither HCCA nor the billed entities an opportunity to provide additional information or to address any specific concern that the SLD may have had with the support previously filed.

The SLD's actions in this matter contravene clear Commission policy directives. In *Trenton City Schools*, DA 08-2327, released October 30, 2008, the Commission admonished the SLD for denying funding without affording the billed entity a reasonable opportunity to support its request for funds. There, an adverse decision had been based upon SLD confusion over possible inconsistencies in invoices that had been submitted in response to a request for documentation. The Commission granted the applicant's appeal, stating that "it appears that the inconsistencies in the submitted invoices can be resolved through further discussions between USAC and the applicant." The Commission further noted: "Correcting the inconsistencies regarding the submitted invoices would not, in and of itself, result in waste, fraud or abuse, or a failure to adhere to core program requirements." (*Id.*, paragraph 6.)

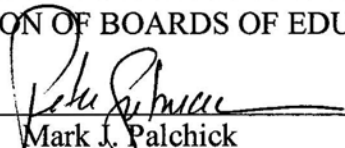
The same policy governs the instant request for review. Here, the SLD asked for copies of the invoices and proof that the billed entity had paid the nondiscounted portion of the fee. HCCA timely provided all that was requested, including additional explanations of the manner in which the Ohio subsidies had been applied. (Unlike in *Trenton City Schools*, *supra*, there was no inconsistency in any of this material.) However, without explanation or any opportunity to supply additional information, SLD simply ignored this information and reduced payment on the discounted portion of the fee. These actions are in direct violation of Commission policy as stated in *Trenton City Schools*, *supra*.

Therefore, in view of the foregoing, HCCA respectfully requests that the Commission grant this Request for Review, find that the SLD erred in its decision to reduce funding, remand the Decision Letters, and direct the SLD to approve funding for the subject invoices.

Respectfully submitted,

HAMILTON CLERMONT COOPERATIVE
ASSOCIATION OF BOARDS OF EDUCATION

By: _____


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